

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

JERMAINE GARDNER,

Petitioner,

- against -

BRIAN FISHER,

Defendant.

GERSHON, United States District Judge:

On January 30, 2008, Magistrate Judge Joan Azrack issued a Report and Recommendation recommending that Mr. Gardner's petition for a writ of habeas corpus be denied and directing the parties to submit any objections within ten days of receiving the Report and Recommendation. No objections having been filed, I hereby adopt the well-reasoned and carefully considered Report and Recommendation of Judge Azrack. Accordingly, Mr. Gardner's petition is denied, and since petitioner has failed to make a substantial showing of the denial of a constitutional right, a certificate of appealability is denied pursuant to 28 U.S.C. § 2253(c).

The clerk of court is directed to enter judgment accordingly.

SO ORDERED.

s/NG

NINA GERSHON  
United States District Judge

Dated: Brooklyn, New York  
April 11, 2008